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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALLAN PARMELEE,

Petitioner,

v.

ELDON VAIL,

Respondent.

Case No. C09-5273 BHS/KLS

ORDER TO AMEND PETITION

This habeas corpus petition has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner Allan Parmelee seeks federal habeas corpus relief pursuant to 28 U.S.C. § 2254. Dkt. # 3.

The Court notes that Mr. Parmelee has failed to name the correct Respondent, thereby depriving this Court of personal jurisdiction. *United States v. Giddings*, 740 F.2d 770, 772 (9th Cir. 1984). 28 U.S.C. § 2243 requires that writs are to be directed “to the person having custody of the person detained.” The proper respondent in a federal habeas corpus petition is the petitioner’s “immediate custodian.” *Demjanjuk v. Meese*, 784 F.2d 1114, 1115 (D.C.Cir. 1986). A custodian “is the person having a day-to-day control over the prisoner. That person is the only one who can

1 produce 'the body' of the petitioner." *Guerra v. Meese*, 786 F.2d 414, 416 (D.C.Cir. 1986).

2 Mr. Parmelee's custodian for purposes of his habeas corpus petition is the warden of the
3 prison where he is currently confined. *See, e.g., Brittingham v. United States*, 982 F.2d 378 (9th Cir.
4 1992); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989). Ronald Fraker is the acting
5 superintendent of the Clallam Bay Corrections Center.

6 The Court also notes that Mr. Parmelee has not yet provided service copies of his Petition.

7 Accordingly, it is **ORDERED**:

- 8 (1) Mr. Parmelee shall amend his petition to name his immediate custodian and provide
9 the Court with service copies of his petition and supporting brief¹, which shall reflect
10 the properly named Respondent, **on or before July 10, 2009**.

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12 DATED this 15th day of June, 2009.

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15 Karen L. Strombom
16 United States Magistrate Judge
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26 ¹Mr. Parmelee may submit a corrected first page only to attach to the copies of the petition
27 and brief already on file with the Court, and two additional complete copies of the petition and brief
28 for service on the named Respondent.